

**Notice of Allowability****Application No.**

10/587,733

**Examiner**

MATTHEW LAWSON

**Applicant(s)**

FENTON ET AL.

**Art Unit**

3775

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to phone interview on May 4<sup>th</sup>, 2011.
2. ☒ The allowed claim(s) is/are 1,3-18 and 20.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 201105053.
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_.

/MATTHEW LAWSON/  
Examiner, Art Unit 3775

/Thomas C. Barrett/  
Supervisory Patent Examiner, Art Unit 3775

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Brian Tomko on May 4<sup>th</sup>, 2011.

The application has been amended as follows:

Claim 1 was amended to recite the limitation of claim 19 along with better defining the shaft and shaft axis of independent claim 1 and the spring element as a unitary structure.

**Claim 1** now reads as:

An instrument for positioning a cup component of an orthopedic joint prosthesis, the cup component having a mouth and an inner surface with a circumferential groove, the instrument comprising:

an elongate shaft defining an axis, and having a distal end;

a housing attached to the distal end of the shaft, the housing extending from the

shaft transversely relative to the shaft axis, the housing comprising a base plate;

at least two flange portions carried on the shaft, each of the at least two flange portions being configured to move relative to the base plate in a direction transverse to the shaft axis between an in-use position, where at least a portion of each of the at least two flange portions is received in the groove of the cup component, and a retracted position where the at least a portion of each of the at least two flange portions is moved towards the shaft axis so as to allow the cup component to be released from the instrument; and

a unitary spring element disposed about the shaft axis and disposed between the at least two flange portions and the axis of the shaft, the spring element biasing each of the at least two flange portions towards the in-use position.

**Claim 19: (Canceled)**

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW LAWSON whose telephone number is (571)270-7375. The examiner can normally be reached on M-F, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Barrett can be reached on 571-272-4746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MATTHEW LAWSON/  
Examiner, Art Unit 3775

/Thomas C. Barrett/  
Supervisory Patent Examiner, Art  
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